

STATE OF INDIANA)	IN THE LAKE CIRCUIT / SUPERIOR COURT
) SS:	
COUNTY OF LAKE)	SITTING IN LAKE COUNTY, INDIANA
CHERYL SPEARS,)	
)	
Plaintiffs,)	
)	
v.)	CAUSE NO.:
)	
MENARD, INC., d/b/a MENARD)	
)	
Defendants.)	

COMPLAINT FOR DAMAGES AND JURY DEMAND

COMES NOW, the Plaintiff, Cheryl Spears, by counsel, Michael F. McFarland of the Law Firm of Walter J. Alvarez, P.C., and for her cause of action against Defendant, Menard, Inc., d/b/a Menard, states as follows:

1. This is a civil action for injuries and damages that the Plaintiff, Cheryl Spears, sustained as a result of an incident that occurred on or about April 12, 2018, in Gary, Lake County, State of Indiana.
2. That the Defendant, Menard, Inc., d/b/a Menard, is located and/or doing business in Lake County, Indiana.
3. At said date and time, the Cheryl was lawfully on the premises of the Defendant as an invitee and with the permission of, and for the benefit of, the Defendant.
4. At said date and time, Cheryl was shopping in an aisle of the store premises, expressly open and accessible to customers such as Cheryl, and while doing so, Cheryl was struck on the skull, with great force and violence, by a fire extinguisher, under the control of the Defendant, which fell off a post to which it was affixed to.
5. The Defendants, and each of them, owed Cheryl, as well as other invitees upon the

premises, a duty to use reasonable care in the management, construction, maintenance, supervision, operation inspection, repair and/or control of the premises, including shelving and posts to which fire extinguishers are affixed to; a duty to warn of hazards; a duty to protect shoppers/customers from dangerous conditions and/or activities upon the premises; and a duty to otherwise make the premises reasonably safe as to avoid causing harm, injury, loss and damages to invitees, the public, customers, and shoppers.

6. However, Defendants, and each of them, breached the foregoing duties and were negligent and/or reckless in one or more of the following respects, *inter alia*:

- a. Defendants, and each of them, had ownership, possession, occupancy, and control of the premises, specifically the shelving, displays, and fire extinguisher placement in and upon the premises but failed to exercise due care in the management, maintenance, supervision, construction, operation, inspection, repair, and/or control of the condition of the premises and the subject shelving/post and fire extinguisher thereupon;
- b. Defendants, and each of them, allowed a dangerous latent and unanticipated condition, as it pertained to Cheryl, to exist in and upon the premises, endangering those, such as Cheryl, at the premises;
- c. Defendants, and each of them, failed to warn Cheryl, and other, of the dangerous latent and unanticipated condition existing upon the premises, subject post and fire extinguisher thereupon, by means of verbal, written, or other warnings which would have made Cheryl and others aware of the dangerous condition;
- d. Defendants, and each of them, allowed, directed and/or encouraged Cheryl to walk amongst the premises aisled and to shop and examine displays and merchandise items in and on the aisleways when Defendants, and each of them, knew or in the exercise of reasonable care ought to have known, the condition of the fire extinguishers constituted an unreasonable harm to Cheryl and under such circumstances would be unsafe and likely result in injury, harm, loss and damage to Cheryl;
- e. Defendants, and each of them, should have reasonably expected that Cheryl would not discover or realize the aforesaid danger or would be unable to protect herself from the aforesaid danger;
- f. Defendants, and each of them, failed to exercise care to protect Cheryl against the aforesaid danger;

- g. Defendants, and each of them, failed to reasonably monitor or supervise the performance of their employees, or other contractors, agents or representatives, in inspecting, maintaining, constructing, correcting, and repairing the store premises fire extinguishers placement; to protect Cheryl against the aforesaid danger;
- h. Defendants, and each of them, hired, retained, and/or trained careless and incompetent employees, representatives, and/or agents, subcontractors, or independent contractors to inspect, maintain, construct, correct, and repair the store premises fire extinguishers placement; and/or
- i. Defendants, and each of them, failed to use the same care that reasonably prudent entities/persons would have used the same or substantially similar circumstances.

7. As a direct and proximate result of the foregoing negligence and/or recklessness, Cheryl sustained personal injuries, some of which were temporary and some of which are permanent; she incurred and will incur hospital, therapeutic, pharmaceutical, surgical and other medical expenses; she suffered and will suffer physical pain, mental anguish, disfigurement, disability, loss of value of time and loss of enjoyment of life; and she sustained other injuries and losses of personal and pecuniary nature.

WHEREFORE, Cheryl Spears demands judgment against Defendant, Menard, Inc., d/b/a Menard in an amount to be determined herein, for the costs of this action, and for any and all other relief the Court may deem proper under the circumstances.

Respectfully submitted,

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PLAINTIFF DEMANDS TRIAL BY JURY

Respectfully submitted,

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